IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 4232 of 1998

Between:

1 Sri Vijaya Krishna chemical Products, Kotappakonda (Village), Guruvayapalem (PO), Narsaraopet Mandal, Guntur Dist., Rep. by its Prop. Ch. Srilakshmi
2 Sri Thri Koteswara Chemicals, Factory, Kotappakonda (V), Guruvayapalem (PO), Narsaraopet Mandal, Guntur Dist., Rep. By its Prop. K. Sarada
3 Sri Sambasiva Chemical Products, Factory, Kondakavur (V), Guruvayapalem, Narsaraopet Mandal, Guntur Dist., Rep by its Managing Partner Smt. P.Nagaratnamma.
4 Sri Vengamamba Chemical Industries, 7-16-217, 7th Line, Srinagar, Guntur-522002, Rep. by its Prop. Pagadala Lakshmi
5 Supreme Chemical Industries, Obulanaidupalem (V), Guntur Mandal, Guntur Dist. Rep. By its Prop. Sk. Akbar
6 Vamsee Krishna Chemicals, Venegandla Road, Gorantla (V), Guntur-522035, Rep by its Prop V.Venkateswarlu.
7 Balakrishna Lime Industries, Venegandla Road, Gorantla, Guntur Dist.522035, Rep. by Prop. V. Musalaiah.
8 Nageswara Lime Industry, D.No.428/3, Venegandla Road, Gorantla,

Guntur Dist.522035, Rep. by its Prop. V. Musalaiah.
9 Durga Chemicals, Chamarru (V), Atchampet (Mandal), Guntur Dist., Rep. by its Prop. N.Seshubabu.
10 Haritha Chemicals, Chamarru (V), Atchampet (M), Guntur Dist.,

Rep. by its Prop. Kolla Vengaiah.
11 Madala Lime Industries, Nadimpalem, Prattipadu(M), Guntur Dist.,

Rep. by its Prop. M.Padmavathi.
12 Madala Venkata Satyanarayana, Vankayalapadu, Yedlapadu Mandal, Guntur Dist., Rep. by its Prop. M.V.Satyanarayana.

..... PETITIONERS

AND

M/s. Singareni Colleries Co.Ltd., P.B.No.18, Khairatabad,
Mehar Manzil, Red Hills, Hyderabad, Rep. by its Chairman.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, direction or directions, declaring the action of the respondent in charging 20% additional price under clause 10 of the price Notification No.3/96-97, dt.14-3-97, from the petitioners as illegal, arbitrary, discriminatory and also violative of Articles 14 & 19 (1) (g) of the Constitution of India and to restrain the respondent from charging any additional price on the supplies of Coal made to the petitioner in pursuance to the clause 10 of the said notification and also to issue a direction to the respondent to refund the additional price collected from the petitioner under the said Notification on the supplies of coal made so far.

Counsel for the Petitioners: MR.V.GOWRI SHANKARA RAO (Not present)

Counsel for the Respondent: MR.K.SRINIVASAMURTHY, SC FOR SINGARENI COLLERIES

The Court made the following :

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ORDER:

This writ petition is filed seeking to declare the action of the respondent in charging 20% of additional price under Clause 10 of the price notification No.3/96-97, dated 14-03-1997 from the petitioners, as illegal, arbitrary and discriminatory and to restrain the respondent from charging any additional price on the supplies of coal made to the petitioners, and consequently to direct refund additional price collected from the petitioners under the said notification.

None appears for the petitioners. It is submitted by the learned Standing Counsel for the respondent that the subject matter of this writ petition is squarely

covered by a Division Bench judgment of this Court in W.P.No.21136 of 1997 and batch, dated 31-03-1998, wherein this Court elaborately considered the matter and dismissed the writ petitions. The operative portion of the order reads as under:

> "… The paramount consideration in placing them in core sector and extending them the benefit of linkage is their intrinsic importance and the role they play in national building activities and the propensities of public utility they possess. The same considerations will hold good even for charging lesser price from them. The special importance has been given to those core industries because the requirement of coal are on high side either for captive power generation or for other uses in manufacturing operations. Any substantial increase in the price of coal will have a substantial effect on the cost of finished products of vital importance and the cost of service to public. As regards the reason for including cement industry in the core sector, it is explained by the respondents counsel in the form of written note that 70% of the cement manufactured in the country is utilized by the Central or State Governments for the construction of projects, Bridges, roads etc. Any increase in the price of coal will result in the increase of cost of cement and the additional expenditure/cost will have a chain reaction on the budgetary allotments and require additional funds. Moreover, it is to be noted that in the case of cement and steel industries as well as the other priority consumers, the consumption of coal is quite high; whereas in the case of non-linked industries, the coal consumption is minimal and the increase in the price of coal will not result in any appreciable increase in the cost of such products manufactured by non-linked sector. Thus, the nature and importance of the industry or consumer from the national perspective, the extent of consumption of coal either for captive power generation or for use in the manufacture legitimately call for a special treatment as far as these customers are concerned. By charging lesser price to such industries or consumers and by evolving dual price policy, it cannot be said that that equals are treated unequally or that the classification does not rest on rational basis. We fail to understand how the respondent-Company had practised an indidious or hostile discrimination. On the one hand, the objective of dual pricing policy seems to be to ensure that the core sector industries or customers are not unduly burdened with price increase, while at the same time the company gets adequate return for its products so as to cover the financial deficit. The colliery can take full advantage of the decontrol and generate additional funds to balance its budget and, so to say, to make both ends meet. We are, therefore of the view that charging lesser price from classified core linked industries does not give rise to hostile discrimination. Hence, we find no substance in the contention based on Art.14.
>
> The writ petitions must therefore fail and are dismissed with consolidated costs of Rs.1,000/- in each writ petition."

In the circumstances, following the above judgment, this writ petition is also dismissed for the same and similar reasons. No costs.

N.V. RAMANA, J

Date: 21-04-2005

Svv

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chairman, M/s Singareni Colleries Co.Ltd.,
P.B.No.18, Khairatabad, Mehar manzil, Red Hills, Hyderabad.

2 Two CD copies

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